

## Mass Fish Deaths in Aquarium and the Legal Response in Japan

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In 2014, over 1000 fish were killed on purpose by a former aquarium worker in the Saitama prefecture.<sup>1</sup> However, there were no legal repercussions or obligations for the aquarium.<sup>2</sup> The incident showed the loophole of the Standards for Rearing and Exhibiting Animals, standards which encourage improvements in animal welfare in zoos and aquariums.<sup>3</sup>

In February 2014, 580 fish in a pond in the aquarium were found dead and another 441 fishes such as varicolored carps, black carps, and tilapia were dead in the same pond in April.<sup>4</sup>

A twenty-five year-old man who had quit a job at the aquarium in February was arrested.<sup>5</sup> He admitted that he threw in a ball of mud mixed with a pesticide.<sup>6</sup> He also admitted that he broke a window and toilet of the aquarium to cause trouble and embarrassment for the aquarium.<sup>7</sup> Thus, he is accused of damage to property<sup>8</sup> and obstruction of business.<sup>9</sup>

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<sup>1</sup> Sankei News, Large Quantities of dead fish in the Aquarium, Arrest of a former staff member, (June 17, 2014) <http://sankei.jp.msn.com/affairs/news/140617/crm14061711250004-n1.htm>

<sup>2</sup> Ministry of the Environment, Phone Interview, (June 27, 2014),

<sup>3</sup> The Standards for Rearing and Exhibiting Animals, Notification No.6, April 30, 2004 of the Ministry of the Environment

<sup>4</sup> Sankei News, *supra*,

<sup>5</sup> A manager of the Saitama Aquarium, a phone interview, (June 27, 2014)

<sup>6</sup> Saitama Shimbun, Former Staff member sent a paper on an additional offense of the charge to break Saitama aquarium fish large quantities death, (August 5, 2014) <http://www.saitama-np.co.jp/news/2014/08/06/01.html>

<sup>7</sup> Saitama Shimbun, *supra*,

<sup>8</sup> Article 261 of Penal Code (Act No. 45 of 1907), Damage to Property (A person who damages or injures property not prescribed under the preceding three Articles shall be punished by imprisonment with work for not more than 3 years, a fine of not more than 300,000 yen or a petty fine.)

<sup>9</sup> Article 233 of Penal Code, Damage to Credit; Obstruction of Business,

According to the manager of the aquarium, the ball of mud was thrown into the pond during the night but there were several fish that were still barely arrive next morning.<sup>10</sup> It suggests that some died slowly, suffering. About 30 fish survived and have now recovered, but the rest died and the speed of their death depended on the species and body size.<sup>11</sup>

Despite the fish's suffering, the death is only accounted for as a property and the damage is measured in terms of economics.<sup>12</sup>

While some countries like the UK legally require the proper care of fish under the consideration of animal welfare,<sup>13</sup> Japan has no legal statement regarding fish welfare.

Although aquariums need to register whether they keep reptiles that are legally managed under the Standards for Rearing and Exhibiting Animals,<sup>14</sup> promoting animal welfare for exhibition and the requirement for care applies to zoos and aquariums. The standards do not have legal binding status and it is totally up to managers of facilities and caretakers how to follow the standards. On the other hand, it puts pressure on the facilities to improve animal welfare at their facilities.

However, the requirement of care does not apply to fish as the definition of animals of the standards includes only "mammals, birds or reptiles."<sup>15</sup>

Therefore, there is no legal requirement for the caretaker of fish at aquarium to prevent the fish from suffering.

Sadly, this is not the first time that huge quantities of fish have suffered and died for nothing.

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(A person who damages the credit or obstructs the business of another by spreading false rumors or by the use of fraudulent means shall be punished by imprisonment with work for not more than 3 years or a fine of not more than 500,000 yen.)

<sup>10</sup> A manager of the Saitama Aquarium, supra,

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Department for Environment Food and Rural Affairs, Archive: Animal Welfare Act 2006, (Page last modified: February 12, 2010) <http://archive.defra.gov.uk/foodfarm/farmanimal/welfare/act/affect.htm#4>

<sup>14</sup> The Standards for Rearing and Exhibiting Animal,

<sup>15</sup> The Standards for Rearing and Exhibiting Animal, Article 2, Definition,

In June 2010, about 7,000 fishes such as pilchard, damselfish and ray fish, died in the biggest water tank (800 tons) at the Niigata City Aquarium.<sup>16</sup> A caretaker of fish attempted to disinfect the water of the tank and put hydrochloric acid, a chemical that is used to clean a tank of dolphin or eared seal but not used for other fish tanks.<sup>17</sup> According to the manager of the aquarium, they made some manuals that cover the chemicals handling and communication standards for staff to avoid the same disaster from happening again.<sup>18</sup> However, the caretaker who mistakenly killed the 7000 fish was not legally punished or fired, and no law is applicable to punish the aquarium.<sup>19</sup>

In Japan, no law requires managerial liability regarding the health control of fish in aquariums. Therefore, no legal punishment or even administrative advice to the aquarium applies to caretakers of aquariums when unnecessary deaths of fish occur.

As a country that is famous for sushi, Japanese have been eating fish for a long time<sup>20</sup> and most Japanese feel comfortable seeing fish being slaughtered in front of them. In this sense, the legal management of fish welfare may take a while to occur. However, it is also true that Japanese like fish, feel relaxed seeing fish at aquariums and care about fish.<sup>21</sup>

While some research shows Japan has the greatest number of aquariums in the world,<sup>22</sup> it is hardly acceptable that there is no protection for fish in Japanese aquariums. The recent incident of mass death of fish illustrated the problem of repeated deaths of fish at the aquarium.

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<sup>16</sup> NST Super News, Huge quantities of fish died at the Niigata Aquarium, (last viewed on August 10, 2014), [http://www.youtube.com/watch?v=Kdwy-DBD\\_LI](http://www.youtube.com/watch?v=Kdwy-DBD_LI)

<sup>17</sup> NST Super News, *supra*,

<sup>18</sup> A manager of Niigata City Aquarium, Phone Interview, (July 31, 2014)

<sup>19</sup> *Id.*

<sup>20</sup> The Fisheries Agency, Culture of fish cuisine, (last viewed on August 10, 2014) <http://www.jfa.maff.go.jp/j/kikaku/wpaper/h19/pdf/data1-1.pdf>

<sup>21</sup> Nikkei News, Is it True that Japan Has the Biggest Number of Aquariums? (January 24, 2011) <http://www.nikkei.com/article/DGXBZO22034840R20C11A1W02100/>

<sup>22</sup> Nikkei News, *supra*, (According to the study of International Aquarium Forum, Japan has at least 70 aquariums and China has 61 which is the second biggest number in the world.)

As more and more research proves that fish have the ability to feel pain, some responsibility and thoughtful care by aquarium caretakers is needed to care for these living beings.